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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,467	02/27/2004	James R. Stelzer	5887-307U1	8565

570 7590 04/20/2007  
AKIN GUMP STRAUSS HAUER & FELD L.L.P.  
ONE COMMERCE SQUARE  
2005 MARKET STREET, SUITE 2200  
PHILADELPHIA, PA 19103

EXAMINER

NGUYEN, DAT

ART UNIT PAPER NUMBER

3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/20/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/789,467	<b>Applicant(s)</b> STELZER ET AL.	
	<b>Examiner</b> Dat T. Nguyen	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 March 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-5,8,9,12 and 14-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-5,8,9,12 and 14-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 8, 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rakib (US 2002/0019984 A1).

Regarding claim 8, the rejection as stated in the previous office action dated 10/19/2005 is maintained and incorporated herein.

Rakib further teaches a PDA like remote device wherein the amusement device has a touch screen (paragraph 51) operable to storing a plurality of video games playable on the respective first and third amusement devices using at least the respective video touch screen (Rakib discloses that it is well known in the art that many communication systems commonly implemented provide services such as video on demand, broadband internet access, home security monitoring, and interactive games (paragraph 3) and Rakib further teaches that the PDA like remote is capable of performing one or more of these functions as disclosed in paragraphs 10-17). Finally, the game of Rakib is taught as being disclosed in the headend unit as oppose to being

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in the remote device, however the examiner has interpreted this as being a matter of design choice and does not increase or alter the functionality of the system wherein the player is still able to play the game on the remote device. Furthermore the device of Rakib is disclosed as being a PDA device, which is well known in the art as being capable of storing and playing videogames. More specifically, paragraph 18 of Rakib indicates that the PDA can serve as a platform on which the intelligent remote control application runs and additional software applications can be added to the PDA.

Videogames have been notoriously well known in the art to be one of such software applications to be commonly included in PDAs at the time of applicant's invention.

Therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include videogame software with the PDA of Rakib in order to increase user functionality and enjoyment, so that users may play games during waiting periods of service in the main system.

Regarding claim 2 and 3, the previous office action discussed how Rakib teaches an amusement communication system that downloads, stores, and plays received music files (please refer to the previous office action dated 10/19/2005 for a detailed explanation). Rakib further teaches a system which can download, store, and play multimedia files (TIVO, further described on page 7 of Rakib).

Regarding claim 9, Rakib teaches the broadcast signal is in the range of one of RF, HI and microwave (paragraphs 51 and 77).

Regarding claim 20, wherein the communication link forms a wireless local area network (Fig. 4 and 5 and the description thereof).

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Claims 4, 5, 12, 14-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rakib (US 2002/0019984 A1) in view of Knowles (US 5,481,509). Regarding claims 12, and 21, the rejections and discussion of the Rakib reference as stated in the office action dated 10/19/2005 is incorporated herein.

Regarding the playable video game of claims 12 and 21, please see paragraph 4 above.

Furthermore the device of Rakib is disclosed as being a PDA device, which is well known in the art as being capable of storing and playing videogames. More specifically, paragraph 18 of Rakib indicates that the PDA can serve as a platform on which the intelligent remote control application runs and additional software applications can be added to the PDA. Videogames have been notoriously well known in the art to be one of such software applications to be commonly included in PDAs at the time of applicant's invention. Therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include videogame software with the PDA of Rakib in order to increase user functionality and enjoyment, so that users may play games during waiting periods of service in the main system.

Further regarding claim 17, 19 and 21, Rakib is silent regarding the amusement device being coin operated, currency operated or credit/debit card operated. In a related patent, Knowles teaches a currency operated jukebox music system. One would be motivated to combine the currency operation method of Martin et al. with the amusement system and controller of Rakib in order to generate income for the owners of the system. Furthermore, Rakib teaches the remote device being capable of ordering

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video-on-demand programs, wherein the remote is performing the transaction of currency/credit for a service (paragraph 13 of Rakib). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to include a currency operated or credit/debit card operation feature similar to Knowles with the amusement system of Rakib in order to generate income and business for the owners of the amusement system.

Regarding claim 4 and 16, Rakib is further silent regarding the inclusion of a video touch screen in the second amusement device. Knowles however discloses a video touch screen in a related patent application disclosing a jukebox entertainment system.

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to implement the second amusement device of Rakib with a video touch screen as taught by Knowles in order to provide more functionality and increased ease of use for users because it is well known in the art that video touch screens offer better functionality than conventional buttons.

Regarding claim 5, please see the discussion of claim 12 as stated in the previous office action wherein it is obvious to one of ordinary skill in the art at the time of invention to include more than one remote so that other users can access the amusement system from other rooms or locations.

Regarding claim 14, please refer to the discussion of claims 2 and 3 above.

Regarding claim 15, please refer to the discussion of claim 9 above.

Regarding claim 18, please refer to the discussion of claim 20 above.

### ***Response to Arguments***

Applicant alleges that Rakib fails to disclose a plurality of games operable to the remote control of the PDA. The examiner respectfully disagrees. It is obvious and can be interpreted as an inherent feature at the time of applicant's invention that PDAs include a memory operable to storing a plurality of games playable on the PDA, further evidence is provided in US Patent 6,530,838 B2, issued to Ha et al. which discloses that PDAs like mobile phones have increasingly been popular and that diverse functions such as games, stock quotes, and digital cameras are provided (1:20-40). Further evidence is provided to a device called the Psion 5, which was available for purchase in 1999 which provides games with the commercially available PDA

([http://web.archive.org/web/20040704032149/en.wikipedia.org/wiki/Psion\\_5](http://web.archive.org/web/20040704032149/en.wikipedia.org/wiki/Psion_5)).

Regarding the alleged typographical error in paragraph 11 of the previous office action, the examiner agrees with the applicant and that the recitation of Martin et al should have been that of Knowles. Applicant alleges it is not obvious to combine Knowles with Rakib. The examiner respectfully disagrees since the references are analogous art and that it would have been obvious to one of ordinary skill in the art at the time of invention to combine the references, further discussion as to why it would have been obvious can be found in the final rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dat T. Nguyen whose telephone number is (571) 272-2178. The examiner can normally be reached on M-F 8am-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dat Nguyen



Robert E Pezzuto  
Supervisory Patent Examiner  
Art Unit 3714